

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RUSSELL, et al,
Plaintiffs

v.

HARRIS COUNTY, TEXAS, et al,
Defendants

[]
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[]
[]
[]
[]

No. 4:19-cv-00226

Hon. Lee H. Rosenthal

U.S. District Judge

SHERIFF’S RESPONSE
TO AMICUS CURIAE BRIEF OF CERTAIN LEGISLATORS

Sheriff Ed Gonzalez welcomes advocacy of differing viewpoints, particularly from other elected officials, regarding the current crisis at the jail. The *amicus curiae* “brief” from several state legislators, however, suffers from several misconceptions that require correction.

The *amici* seem to suggest no persons accused—but not convicted—should ever be released from jail. To the contrary, our laws make pre-trial detention the exception, not the rule. Even under the system the *amici* prefer, any accused with sufficient money can secure release with a bond. The problem with this current system, one exposed by the plaintiffs in this case, is that many persons who could otherwise be free while awaiting trial remain in jail simply because they are too poor to afford a bond.

By raising an issue about the alarming overpopulation of the jail, the Sheriff was not, as *amici* imply, promoting a wholesale release of potentially dangerous detainees. The criminal justice system has ample protections to ensure that those charged with violent offenses receive attention from judges, prosecutors, and defense counsel before bond is set or release determined.

The Sheriff believes a balance must be found, one that reduces the jail population to a manageable level while at the same time providing protection from violent offenders. No system can guarantee that crimes will not be committed by accused persons who are released—whether released on “sufficient” bond or otherwise. The Sheriff does not, in any event, decide on the release of any individual detainee; only the entire criminal justice system, working together, in accordance with our laws and Constitution, can do that.

The system has simply not been processing cases as quickly as before, leading to a backlog and overpopulation at the jail. By alerting all participants in the system, the Sheriff wanted to spur deliberation of all potential options. Releases of those charged with non-violent offenses is but one option. Additional hearings, by zoom or otherwise, could also help.

If *amici* followed the proceedings in this Court, they would know that in response to the Sheriff’s call for action all stakeholders in the system agreed merely to review the status of those with relatively low bonds, who by definition were

charged with lesser offenses, to see if a lower bond or personal bond were appropriate on a case-by-case basis. The advisory of the District Attorney should dispel the amici's fears of any "dangerous release of accused felony offenders from the Harris County Jail without any consideration of law enforcement officers and crime survivors...." Amicus Br. at 3-4.

The Sheriff needs no lectures from legislators to remind him that public safety is paramount. But *amici* missed the larger point. The raging pandemic in Harris County is a public safety issue, too. Ignoring the rampant virus in the close quarters of the jail endangers not simply the persons unlucky enough to be too poor to post a bond. It endangers the men and women of the Harris County Sheriff's office staff who process, house, feed, and minister to the detainees. More importantly, failure to take action to contain the virus in the jail endangers every person in this county, including the 1,570,132 represented by the *amici*.

Respectfully submitted.

/s/ Murray Fogler

Murray Fogler

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ATTORNEYS FOR SHERIFF ED GONZALEZ

CERTIFICATE OF SERVICE

I certify that on January 25, 2021, a copy of this document was served on counsel of record via electronic filing in accordance with the USDC Southern District of Texas Procedures for Electronic Filing.

/s/ Murray Fogler
Murray Fogler